



RICK CLAYBURGH  
COMMISSIONER

STATE OF NORTH DAKOTA

## OFFICE OF STATE TAX COMMISSIONER

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### Income and financial institution taxes update for 2002

Dear Tax Professional:

As we approach a new tax filing season, I want to express my gratitude for the services you provide, not only to your clients but to the citizens of North Dakota. To help you in your process of gearing up for the new season, we are happy to provide you with this update on changes that may affect you and your clients.

#### **New extension payment voucher**

Three new extension payment voucher forms will be available in December for individuals, "C" corporations, and fiduciaries. The vouchers must be used by taxpayers who apply for (or have) an extension of time to file but wish to pay their expected tax due by the regular due date for payment (usually April 15). The names of the vouchers are Form 400-EXT (for individuals), Form 40-EXT (for "C" corporations), and Form 401-EXT (for fiduciaries). To obtain the new forms, go to our Web site at [www.ndtaxdepartment.com](http://www.ndtaxdepartment.com), or contact us by e-mail, fax, phone, or regular mail.

#### **Effect of "C" corporation merger on North Dakota net operating loss**

A North Dakota net operating loss (NOL) belongs to the corporation that incurred it, regardless of its business activities or filing method used for North Dakota tax purposes. The North Dakota NOL of the non-surviving corporation in the merger is forfeited and may not be used as a deduction by the surviving corporation. See North Dakota Administrative Code (N.D. Admin. Code) § 81-03-05.1-07(7). *(Note: This treatment also applies in the case of an unused recapture of federal alternative minimum tax and certain unused tax credits of the non-surviving corporation.)*

#### **Effect of Job Creation and Worker Assistance Act of 2002**

Taxpayers and tax professionals alike have inquired about the effects of the federal Job Creation and Worker Assistance Act of 2002 (Act) on North Dakota income and financial institution tax laws, particularly the new bonus depreciation and five-year NOL carryback period changes. North Dakota's income and financial institution tax laws automatically recognize any change in the Act that affects the calculation of federal taxable income, the starting point in the calculation of North Dakota taxable income. The bonus depreciation and five-year NOL carryback period changes in the Act apply for North Dakota income tax purposes. For financial institution tax purposes, though, the five-year NOL carryback period change does not apply.

**Treatment of a corporation's North Dakota NOL.** The Act allows a corporation to change an election already made to forego the carryback of a 2001 NOL for federal tax purposes. However, this federal change *does not* affect the election to forego an NOL carryback for North Dakota tax purposes. For North Dakota tax purposes, an election already made by a corporation on its North Dakota tax return for the loss year may not be changed. See N.D. Admin. Code § 81-03-05.1-07(3).

#### **New credit card payment option available to individuals**

Starting with the 2002 tax year, individuals may pay the balance due on their Form ND-1 or Form ND-2 using their MasterCard®, American Express® card, Discover® card, or VISA® card. They may also use this option to make an extension payment (for 2002) and to make estimated tax payments for 2003. Credit card payments must be made by telephone or over the Internet through Link2Gov Corporation, a private credit card payment service provider. A convenience fee of 2.49% (of the payment) will be charged to the individual's credit card for this service. North Dakota does not receive any part of this fee. To pay by credit card, go to Link2Gov Corporation's Web site at [www.ndtaxpayment.com](http://www.ndtaxpayment.com) or call toll-free 1-888-ND-TAXES (1-888-638-2937).

#### **Parents' Form 8814 removes child's filing requirement**

If parents qualify for and elect to use Form 8814 to report their child's income on their own federal income tax return, their child's income becomes part of their gross income, and the child is relieved of the requirement to file a federal income tax return for the year. Because there is no requirement to file a federal income tax return, the child is not required to file a North Dakota income tax return for the same year. In addition, because of the special manner in which the federal income tax is calculated on the child's income for purposes of the parents' return, the child's income is not taxable to the parents for North Dakota income tax purposes. There is no provision under North Dakota income tax law that requires the child's income to be added to the parents' federal taxable income for purposes of calculating their North Dakota taxable income.

**E-filing continues its steady growth**

As of October 18, 2002, the Office of State Tax Commissioner received 78,932 North Dakota individual income tax returns electronically for the 2001 tax year—a 56 percent increase over the number filed for 2000. This means that approximately 25 percent of all individual filers now use e-file. Following are changes to note for the 2002 tax year:

- The IRS now allows more than one state return to be filed by a taxpayer under the Federal/State *e-file* Program. As before, the federal return along with one of the taxpayer's multiple state returns must be electronically filed. If this first transmission is approved, then another state return may be electronically filed based on the first approved filing. The IRS will automatically send a copy of the federal return with each state return transmitted to the states. Check with your software vendor to see if this option is supported in their software.
- The IRS will now accept a return electronically filed on behalf of a deceased individual under the Federal/State *e-file* Program. If supported by the software, North Dakota will also accept the return electronically.
- Since North Dakota began accepting tax due returns electronically, a courtesy reminder has been mailed in early April to those individuals with a tax balance due. This courtesy reminder will be discontinued starting with the 2002 return.

Following is a list of some of the more common errors encountered with e-filed returns:

- **Filing a paper return (anyway).** Unless you already do so, please advise your clients *not* to file the paper copy of their return.
- **Incorrect address.** Please ask your clients for their current address *each year*, and update your files.
- **Missing SSN of spouse.** Please review all returns to ensure that the social security numbers of both spouses are included on the return (even if filing separately).
- **Assuming direct debit applies.** Please inform your clients that even though they choose to pay their federal tax due on an electronically filed return using the direct debit option, a balance due on their North Dakota return will not automatically be paid in the same manner. They must pay their North Dakota tax due by check (or money order) along with Form ND-1V or by credit card.
- **Submitting payment before e-filed return has been accepted.** Please advise your clients not to submit payment of their tax due until after they are informed that their e-filed return has been accepted by our office. However, if the return is transmitted close to the due date, advise your clients to submit their payment by the due date even though they have not received notification of acceptance to ensure timely payment.

**Federal taxable income may be negative for purposes of Form ND-1**

If federal taxable income is a negative number (mathematically), individuals are instructed to enter zero on their federal return. However, for purposes of completing Form ND-1, enter the negative number on line 1. (*Note: This also applies to Form ND-2, Schedule 2, line 1.*)

**Schedule ND-1FA revised top to bottom**

Schedule ND-1FA, the 3-year elected farm income averaging schedule for Form ND-1, has been completely revised for 2002. The layout of the schedule now more closely resembles the layout of the Federal Schedule J (Form 1040). Be especially attentive when entering information for the three base years because the required information may come from any of the following forms: Form 37-S, Form 37, Form ND-1, Form ND-2, or the 2001 Schedule ND-1FA.

**New credit added to Form ND-1**

Legislation passed in 2001 allowed the seed capital investment tax credit to be claimed on Form ND-1 starting with the 2002 tax year. (*See Form ND-1, page 2, line 21.*) A 30 percent tax credit is allowed for making an investment of at least \$5,000 in a business that has been certified by the North Dakota Commerce Department's Division of Economic Development and Finance as a qualified business as defined under N.D.C.C. ch. 57-38.5.

If you have any questions about the information in this letter, do not hesitate to contact our office for assistance.

Have a successful tax season!



RICK CLAYBURGH  
TAX COMMISSIONER

November 26, 2002

**2002 income tax order form enclosed**

If you need paper forms, use the enclosed order form. Please order only what you need. Forms may also be downloaded from our Web site at:  
**[www.ndtaxdepartment.com](http://www.ndtaxdepartment.com)**

**2002 Order form** for income tax forms**Pick-up order. I will  
pick up my order on:**  
(Enter date on or after 12/16/2002)

See instructions on the back of this form

► Print forms from our Web site at **www.ndtaxdepartment.com**

Name			Daytime phone number
Address	City	State	Zip code

**Individual income tax forms****Form ND-1 forms and instructions**See **Note A** on reverse side.

- |   |   |
|---|---|
| _____ Form ND-1 Individual Income Tax Booklet | Individual income tax forms and instructions (Main method)<br><b>(Limit 5) (See Note B)</b> |
| _____ Form ND-1                               | Individual Income Tax Return (Main method)  |
| _____ Schedule ND-1NR (Form ND-1)             | Tax Calculation For Nonresidents And Part-Year Residents                                    |
| _____ Schedule ND-1CR (Form ND-1)             | Calculation Of Credit For Income Tax Paid To Another State (Form ND-1 only)                 |
| _____ Schedule ND-1FA (Form ND-1)             | 3-Year Averaging Method For Elected Farm Income   |
| _____ Instructions for Schedule ND-1FA        |   |

**Form ND-2 forms and instructions**See **Note A** on reverse side.

- |   |   |
|---|---|
| _____ Form ND-2 Individual Income Tax Booklet | Individual income tax forms and instructions (Optional method)<br><b>(Limit 5) (See Note C)</b> |
| _____ Form ND-2 (and Schedule 2)              | Individual Income Tax Return (Optional method) <b>(See Note D)</b>                              |
| _____ Schedule 3 (Form ND-2)                  | Schedule For Full-Year Nonresident Or Part-Year Resident Using Form ND-2                        |
| _____ Schedule 4 (Form ND-2)                  | Calculation Of Credit For Income Tax Paid To Another State (Form ND-2 only)                     |

**Other individual income tax forms**

- |   |   |
|---|---|
| _____ Schedule FC                         | Family Member Care Income Tax Credit (Form ND-1 or Form ND-2) <b>(Limit 5)</b>                  |
| _____ Form 400-ES (2003)                  | Estimated Income Tax—Individuals  |
| _____ Envelopes for Form 400-ES           | Preaddressed envelope for mailing Form 400-ES payment voucher and payment                       |
| _____ Form 400-UT                         | Calculation Of Interest on Underpayment Or Late Payment Of Estimated Income Tax For Individuals |
| _____ Envelope for Form ND-1 or Form ND-2 | Preaddressed envelope for mailing individual income tax return                                  |

**Corporation income tax forms**

- |  |  |
|--|--|
| _____ Form 40 Corporation Income Tax Booklet | Corporation income tax forms and instructions (C corporation)<br><b>(Limit 5) (See Note E)</b> |
| _____ Form 40                                | Corporation Income Tax Return (C corporation) <b>(Limit 5)</b>                                 |
| _____ Form 40 Schedules Package              | Contains Schedule SA, Schedule FTD, Schedule AMT-R, and Schedule TC                            |
| _____ Form 40X                               | Amended Corporation Income Tax Return <b>(Limit 10)</b>  |
| _____ Form 40-ES (2003)                      | Estimated Income Tax For Corporations (C corporation only)                                     |
| _____ Form 60                                | Small Business Corporation Income Tax Return (S corporation) <b>(Limit 10)</b>                 |
| _____ Instructions for Form 60               |  |

**Fiduciary and partnership forms**

- |                                |  |
|--------------------------------|--|
| _____ Form 38                  | Fiduciary income tax return (for estates and trusts) |
| _____ Instructions for Form 38 |  |
| _____ Form 401-ES (2003)       | Estimated Income Tax—Estates And Trusts              |
| _____ Form 58                  | Partnership return of income                         |
| _____ Instructions for Form 58 |  |

**Other forms**

To obtain a form or income tax guideline not listed on this order form, print the quantity and description of the form or guideline on the lines below.

_____	
_____	
_____	
_____	

**Mailing/Shipping Label**

If you want us to mail or ship your order to you, please complete this label.

**Please print or type**

28725

Office of State Tax Commissioner 600 E. Blvd. Ave. Dept. 127 Bismarck, ND 58505-0599	Name		
	Address		
	Address		
	City or town	State	Zip code

# 2002 Order form instructions

## Note:

- Orders are filled on a first-in, first-out basis.
- Orders will be filled no earlier than December 6, 2002.
- You may print forms from our Web site at **[www.ndtaxdepartment.com](http://www.ndtaxdepartment.com)**.

## Instructions

### 1. Fill in your name and address at the top of the order form.

Also enter your daytime phone number in case we have any questions about your order.

### 2. Fill in the quantity of each item you need.

Note the quantity limits for certain items in the description of the item. If you need additional copies, please attach a letter explaining the reason for requesting the additional copies.

Your consideration in ordering only what you think you will need will help us keep printing and shipping costs to a minimum. An extra order form will be included with the items shipped to you in case you need to reorder.

### 3. Do you want us to mail or ship your order to you?

If you wish to have your order mailed or shipped to you, please complete the label at the bottom of the order form. Please print or type.

### 4. Do you want to pick up your order in person?

If you prefer, you may pick up your order in person at our Bismarck office on or after December 16, 2002. Please indicate your intention to pick up your order by entering a date in the box in the upper right-hand corner on the front of the order form.

#### Where to pick up your order.

You may pick up your order at the State Capitol, 7th floor, between 8:00 a.m. and 5:00 p.m., Monday through Friday (except holidays).

### 5. Mail your order form to:

Office of State Tax Commissioner  
600 E. Boulevard Ave.  
Dept. 127  
Bismarck, ND 58505-0599

## Notes for specific items on order form

### Note A

Form ND-1 constitutes the main income tax return for individuals. Most individuals—over 95 percent—will have a lower tax on Form ND-1 than on Form ND-2.

Form ND-2 provides an optional method that may be of benefit to some individuals.

### Note B

#### Form ND-1 booklet

The Form ND-1 individual income tax booklet contains:

- Form ND-1
- Schedule ND-1NR
- Schedule ND-1CR
- Preaddressed envelope
- Instructions

### Note C

#### Form ND-2 booklet

The Form ND-2 individual income tax booklet contains:

- Form ND-2 (Optional method)
- Schedule 2
- Schedule 3
- Preaddressed envelope
- Instructions

Only a small number of filers—less than 5 percent—will benefit from the use of Form ND-2, so the quantity of this booklet is limited. Also see Note A.

### Note D

#### Form ND-2

Form ND-2 is composed of three parts: Schedule 2 (for full-year residents), Schedule 3 (for full-year nonresidents and part-year residents), and the Tax Computation Schedule (for all filers). When you order Form ND-2, you will receive a two-sided form containing Schedule 2 and the Tax Computation Schedule. Schedule 3 must be ordered separately.

Only a small number of filers—about 5 percent—will benefit from the use of Form ND-2. Also see Note A.

### Note E

#### Corporation booklet

The corporation income tax booklet contains:

- Form 40
- Schedule SA
- Schedule FTD
- Schedule AMT-R
- Schedule TC
- Schedule FACT-1
- Schedule WW
- Form 40-ES
- Instructions